

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

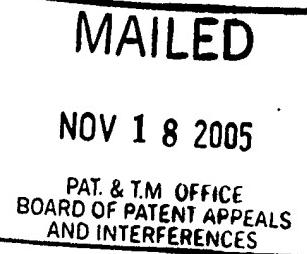
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SATOSHI ARAKAWA

Appeal No. 2005-2604
Application 09/931,064

ON BRIEF



Before HAIRSTON, KRASS, and JERRY SMITH, Administrative Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-13 and 15-20, which constitute all the claims pending in this application.

The disclosed invention pertains to an image information reading apparatus for reading radiation image information

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recorded on a stimulable phosphor sheet by applying stimulating light to the stimulable phosphor sheet.

Representative claim 1 is reproduced as follows:

1. An image information reading apparatus comprising:

a support table for placing thereon a container which houses a stimulable phosphor sheet with radiation image information recorded therein, with a lid openably and closably mounted on the container;

displaceable stimulating light applying means for applying stimulating light to the stimulable phosphor sheet which is exposed when said lid is opened;

displaceable light collecting means for collecting light which is emitted from said stimulable phosphor sheet upon exposure to said stimulating light; and

a photoelectric transducer mechanism for converting the collected light to an electric signal;

the arrangement being such that while said stimulating light applying means is facing and being displaced with respect to said stimulable phosphor sheet housed in said container, said stimulating light applying means applies said stimulating light to said stimulable phosphor sheet, and while said light collecting means is being displayed with respect to said stimulable phosphor sheet, said light collecting means collects light emitted from said stimulable phosphor sheet and reads radiation image information from the collected light.

The examiner relies on the following references:

Watanabe	4,733,307	Mar. 22, 1988
Torii	4,810,874	Mar. 07, 1989
Schneider et al. (Schneider)	4,965,455	Oct. 23, 1990
Hayakawa et al. (Hayakawa)	6,365,909	Apr. 02, 2002 (filed Oct. 28, 1998)

Claims 1-13 and 15-20 stand rejected under 35 U.S.C. § 103(a). As evidence of obviousness the examiner offers

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Hayakawa in view of Torii with respect to claims 1-4, 7-11, 17 and 18, Hayakawa in view of Torii and Schneider with respect to claims 5, 6, 15, 16 and 20, and Hayakawa in view of Torii and Watanabe with respect to claims 12, 13 and 19.

Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in the claims on appeal. Accordingly, we affirm.

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In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), cert. denied, 475 U.S. 1017 (1986); ACS Hosp. Sys., Inc. v. Montefiore Hosp., 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If that burden is met, the burden then shifts to the applicant to overcome the prima facie case with argument and/or

evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See Id.; In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Only those arguments actually made by appellant have been considered in this decision. Arguments which appellant could have made but chose not to make in the brief have not been considered and are deemed to be waived [see 37 CFR § 41.37(c)(1)(vii) (2004)].

We consider first the rejection of claims 1-4, 7-11, 17 and 18 based on Hayakawa and Torii. The examiner essentially finds that Hayakawa teaches the claimed invention except that Hayakawa lacks the stimulable phosphor sheet being housed in a container. The examiner cites Torii as teaching a stimulable phosphor container. The examiner finds that it would have been obvious to the artisan to house the stimulable phosphor sheet of Hayakawa in a container as taught by Torii so as to minimize damage as taught by Torii [answer, pages 3-4].

With respect to independent claim 1, appellant argues that Hayakawa does not teach certain features of the claimed invention because Hayakawa removes the phosphor sheet from the container while applying the stimulating light and collecting the emitted

light. Appellant argues that Torii does not cure the deficiencies of Hayakawa because Torii fails to teach or suggest a support table, let alone a support table for holding a container as claimed. Appellant notes that Torii uses a conveyor belt to display the phosphor sheet about the light applying and collecting means, and that a conveyor belt is not the same thing as a table. Appellant also notes that the claimed invention does not move the container with the phosphor sheet inside, but instead, displaces the light applying and collecting means with respect to the stimulable phosphor sheet housed in the container. Appellant also argues that the claimed invention does away with Hayakawa's complex sheet handling system and Torii's conveyor belt system [brief, pages 9-12].

The examiner responds that appellant has argued deficiencies in the references individually instead of considering the collective teachings of the references. The examiner notes that all the recitations of claim 1 are met by the combined teachings of Hayakawa and Torii [answer, pages 7-9].

Appellant responds that Hayakawa fails to teach or suggest (1) a stimulable phosphor sheet housed in a container (2) that is supported on a support table (3) while light applying and collecting means are displaced about the container, and that

Torii fails to overcome these deficiencies. Appellant then repeats the arguments as set forth in the main brief [reply brief, pages 2-5].

We will sustain the examiner's rejection of independent claim 1 for essentially the reasons argued by the examiner in the answer. We agree with the examiner that appellant's arguments fail to address the collective teachings of the references as applied by the examiner. For example, with respect to appellant's argument regarding the deficiencies of Hayakawa numbered (1) to (3) above, we note that Hayakawa does teach (1) a stimulable phosphor sheet (removed from a cartridge) (2) that is supported on a table 4 (3) while a light applying and collecting means are displaced about the container (note that Hayakawa teaches that the image reading section moves) [column 9, lines 61-62 and column 10, line 28]. Thus, the only feature of claim 1 not taught by Hayakawa is the recitation that the stimulable phosphor sheet is housed in a container. The examiner cited Torii only for its suggestion that the reading of a stimulable phosphor sheet as taught by Hayakawa should be done with the sheet in a container in order to protect the sheet from scratches and other damage [Torii, column 2, lines 22-24]. For purposes of this decision, we are holding that on the record before us, it

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would have been obvious to the artisan to broadly house the stimulable phosphor sheets of Hayakawa in a container as taught by Torii in order to protect the sheets from damage.

Since dependent claims 2-4, 7-11, 17 and 18 have not been separately argued by appellant, they fall with independent claim 1. With respect to the rejection of dependent claims 5, 6, 12, 13, 15, 16, 19 and 20, which are rejected using the additional teachings of Schneider or Watanabe, appellant's only argument is that neither Schneider nor Watanabe cures the deficiencies of Hayakawa and Torii [brief, pages 12-13]. Since we find that the examiner has established at least a prima facie case of the obviousness of these claims, and since appellant has not argued the limitations of these claims separately, we also sustain the examiner's rejection of each of these claims.

In summary, we have sustained each of the examiner's rejections of the claims on appeal. Therefore, the decision of the examiner rejecting claims 1-13 and 15-20 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

Kenneth W. Hairston
KENNETH W. HAIRSTON
Administrative Patent Judge)

Errol A. Krass
ERROL A. KRASS
Administrative Patent Judge)

Jerry Smith
JERRY SMITH
Administrative Patent Judge)

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